such measurement at a communication terminal to reception circuitry located, for example, at a base station. Thus, the Noneman et al. reference lacks significant features of the present claims, as discussed in detail below.

The present claims recite (1) reception circuitry that receives information of reception quality that is measured at the communication terminal and that is received in the absence of any rate control information from the communication terminal specifying transmission rate based on the reception quality and (2) transmission rate control circuitry that changes a transmission rate to the communication terminal based on the information of reception quality measured at the communication terminal. The reception circuitry and the transmission rate control circuitry are separate from the communication terminal, and the transmission rate control circuitry decreases the transmission rate when the reception quality at the communication terminal side deteriorates.

In contrast, Noneman et al. disclose a system wherein, if packet transmission at peak rate 300 stops for longer than idle expiration time 320, then idle rate 310 transitions to intermediate rate 330 until an acknowledgment (ACK) 340 is received, whereupon peak rate transmission 350 may resume. The receipt of ACK 340 informs the transmitter that sufficient system capacity exists to support the peak rate transmission. See, col. 5, lines 30-35.

Nowhere does the reference liken its ACK signal to that of an ARQ-type system, and in fact the signals in an ARQ-system are quite different from the ACK signal of Noneman et al. Contrary to the assertion in the office action, Noneman et al. state solely that their ACK signal informs the source that sufficient system capacity exists to support the peak transmission rate, not that "ideal reception conditions" exist as alleged in the office action.

It is submitted that the above points are clear from the following portions of the reference.

Col. 2, at lines 27-37 states:

> If packet data becomes available for transmission between the time the first inactivity timer expires and the second inactivity timer expires, the data packets are transmitted at the intermediate rate, which is generally lower than the peak rate. After the transmitting source receives an acknowledgment from the receiving end of the channel, the data rate switches back to the peak rate. The data rate is not immediately switched back to the peak rate when packet data is available, because the network may have insufficient capacity to support the peak rate after reallocating capacity during the idle time. After an acknowledgment is received that sufficient capacity is available, the transmitting source may then use the peak rate. (emphasis added)

Col. 5, at lines 6-14, states:

> On a heavily loaded network with limited available capacity, the network may set the Idle Time short so that the inactive user's capacity can quickly be reallocated to an active user. The network reserves capacity to support the Intermediate Rate after the Idle Time expires. The Terminate Time is less critical because the actual capacity used is based

> on Idle Rate transmission, and the Intermediate Rate <u>capacity being reserved by the network</u> 32 is generally less than the Peak Rate. (emphasis added)

The network's ACK signal that is based on "available system capacity" is opposite to the present claimed invention wherein the transmission rate is changed based on <u>information of a reception quality that is measured at the communication terminal</u> and wherein reception circuitry, separate from the communication terminal, receives this information of reception quality and wherein transmission rate control circuitry changes the transmission rate based on this information.

Nothing in Noneman et al. discusses, implies or hints at a reception quality measurement at the communication terminal, nor providing information of such a measurement to the base station. In contrast to the present claims, Noneman et al.'s ACK signal merely reflects system capacity.

Noneman et al. do not expressly describe the basis on which the system capacity is derived, but implies that the basis is the degree of congestion of the entire communication system. See, col. 5, line et seq. which refers to "a heavily loaded network with limited available capacity." Under this criterion, an ACK signal indicating high data rate is based upon the congestion load of the entire communication system and does not provide any indication of whether reception quality at a particular mobile station is high or

low. In this case, it is impossible to determine channel quality of the particular communication terminal from the ACK signal. Accordingly, the transmission of an ACK signal does not mean that received quality at the mobile station has been measured, but rather merely reflects the overall system congestion.

Thus, it is clear that Noneman et al.'s system operates on a very different concept from that of the present claimed invention.

Accordingly, it is respectfully submitted that Noneman et al. fail to anticipate (or render obvious if a 103 rejection were contemplated) the present claimed invention, that the rejection based on Noneman et al. should be withdrawn, and that all pending claims are directed to allowable subject matter.

It is submitted that this application is in condition for allowance, and a notice of allowance is respectfully solicited.

If any issues remain which may be best resolved through a telephone communication, the Examiner is requested to telephone the

undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

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